IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6332 OF 2003

Mr.K.S.Patil h/f Mr.P.N.Joshi for the Petitioner.

Mr.A.S.Desai for Respondent No.2.

Mr.M.H.Solkar, AGP for the State.

Mr.C.G.Gavnekar for Respondents Nos. 4 & 5.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 4TH MAY,2005

P.C.:

1. By this petition the Petitioner challenges the order passed by the Divisional Joint Registrar, Co.operative Societies, Nashik rejecting the revision application filed by the Petitioner.

2. The Petitioner is a bank, which made an application for recovery certificate before the Dy.Registrar.

In the application, recovery certificate was sought against the Respondents Nos. 4 & 5.

3. The Dy.Registrar did not grant recovery certificate against the Respondents Nos. 4 & 5 though he granted recovery certificates against others, because there was no resolution passed by the Managing Committee of the Bank for seeking recovery certificate against the Respondents Nos. 4 & 5. The Dy. Registrar, therefore, observed that in the absence of resolution of the Managing Committee, the Bank cannot seek recovery certificate against the Respondents Nos.4 & 5 and therefore no recovery certificates were granted against them.

4. As it is not in dispute that there is no resolution passed by the Managing Committee seeking recovery certificates against the Respondents Nos. 4 & 5, at that juncture the managing committee ought to have passed a resolution seeking recovery certificate against the Respondents Nos. 4 & 5 and should have applied

to the Dy.Registrar for recovery certificates against them. But the Bank did not do so, instead a revision application was filed before the Joint Registrar challenging the order of the Dy.Registrar.

5. The Joint Registrar also found that there is no resolution of the Managing Committee and therefore he found that the Dy.Registrar was justified in not issuing recovery certificates against the Respondents Nos. 4 & 5. Really speaking, at this juncture atleast the bank should have passed a resolution of the Managing Committee and approached the Dy. Registrar for a recovery certificate. But again in stead of doing that, present petition was filed in the year 2003 and the bank waited till today doing nothing. If the bank is right, that the Respondents Nos. 4 & 5 are guarantors, then the Managing Committee should have passed a resolution for recovery certificate against them in the first place. In any case resolution should have been

passed when the Dy.Registrar declined to issue recovery certificate, but instead of following that simple course, the bank has taken this route by wasting the share holders money and court's time. The petition, obviously, has no substance and deserves to be rejected.

6. The course of conduct adopted by the Petitioner/bank makes one to think that may be the Petitioner/bank is hand-in-glove with the Respondent Nos. 4 & 5, and therefore, such proceedings are being adopted. This really calls for an explanation from the bank as to why this course of conduct was adopted. Petition is disposed of. However, the office is directed to send a copy of this order to the Divisional Joint Registrar/ Respondent No.7 so that the Respondent No.7 can inquire into the matter and if necessary take appropriate action against the Petitioner/bank.

...